



Office for Prekindergarten through Grade 12 Education
 School Operations and Management
 Child Nutrition Program Administration
 89 Washington Avenue Room 375 EBA Albany, NY 12234
www.cn.nysed.gov

RFP #: GC18-018 FY 2017 National School Lunch Program (NSLP) Equipment Assistance Grant for School Food Authorities (SFAs)

Announcement of Funding Opportunity

<p>Purpose of Grant</p>	<p>The School Food Service Equipment Grant is intended to improve the infrastructure of the NSLP. This will be achieved by providing the opportunity for schools to purchase equipment to serve healthier meals that meet the updated meal patterns, improve the overall quality of meals, improve efficiency of production and service and expand participation in school meals programs.</p>
<p>Eligible Applicants</p>	<p>All Recipient Agencies (RA) under a School Food Authority (SFA) participating in the NSLP in New York State are eligible (including public school districts, non-profit nonpublic schools, charter schools and residential childcare institutions). Priority will be given to RAs with 50 percent or more students eligible for free or reduced price meals and to RAs that did not receive a previous grant award through the American Recovery and Reinvestment Act (ARRA) Food Service Equipment Grant, the FY 2010, FY 2014, FY 2015 or the FY 2016 National School Lunch Program Equipment Assistance Grant for School Food Authorities. A list of RAs that previously received an equipment grant is available at http://www.p12.nysed.gov/funding/currentapps.html. The SFA will apply on behalf of their eligible RAs. The SFA will submit a separate application for each piece of requested equipment for an eligible RA.</p>
<p>Mandatory Requirements</p>	<p>Equipment Assistance Grant Applications will only be considered if they meet the following Mandatory Application Requirements:</p> <ul style="list-style-type: none"> • Not-for-profit applicants must be Prequalified in the Grants Gateway by the application deadline. Additional information is provided in the Prequalification for Individual Applicants section below. • Applications must be submitted by an eligible applicant that is currently approved to participate in NSLP or that receives formal SED approval to operate NSLP by the application deadline. • Applications must request equipment that is allowable under this RFP, and has a minimum award value of \$2,000. See the Equipment Definition section of the RFP for details • Applications requesting equipment with a unit cost that is less than \$5,000 must include a copy of the Capitalization Threshold Policy that demonstrates that the equipment cost equals or exceeds the capitalization threshold. • All non-public applicants must include a current Certificate of Occupancy and fire inspection for the RA in which the equipment will be placed. <p>Applications that do not meet the Mandatory Application Requirements and/or that are post-marked after the application deadline will not be considered.</p>
<p>Funding and Project Dates</p>	<ul style="list-style-type: none"> • Funds Available: \$1,373,736 • Project Dates: 8/1/2018-7/31/2019 • Grant Amounts: A minimum of \$2,000 up to a maximum of \$20,000 per <i>Recipient Agency (RA)</i>. Separate applications must be submitted for each piece of requested <i>equipment</i>. Total combined awards to an SFA for an individual RA cannot exceed \$20,000.

Due Date	Fully completed applications including one original and two hardcopies must be postmarked by January 19, 2018 and mailed to: New York State Education Department Child Nutrition Program Administration RFP #GC18-018 NSLP Equipment Assistance Grant 89 Washington Avenue, Room 375EBA Albany, NY 12234	
Questions and Answers	Questions regarding this grant must be emailed to foodequip@nysed.gov by December 15, 2017. A Questions and Answers Summary will be posted at: P-12 Funding Opportunities (http://www.p12.nysed.gov/funding/currentapps.html) no later than December 29, 2017.	
Non-Mandatory Notice of Intent	The Notice of Intent (NOI) is not a requirement for submitting a complete application by the application date; however, NYSED strongly encourages all prospective applicants to submit an NOI to ensure a timely and thorough review and rating process. A non-profit applicant's NOI will also help to facilitate timely review of their prequalification materials. The notice of intent is a simple email notice stating your organization's (use the legal name) intent to submit an application for this grant. Please also include your organization's NYS Vendor ID. The NOI due date is January 5, 2018. Please send the NOI to foodequip@nysed.gov .	
Contacts	Program: Tara Webster/Colleen Hasselbach foodequip@nysed.gov	Fiscal: Adam Kutryb foodequip@nysed.gov

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- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

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FY 2017 National School Lunch Program (NSLP) Equipment Assistance Grant for School Food Authorities (SFAs)

Guidance Manual

Introduction

The Fiscal Year (FY) 2017 Consolidated Appropriations Act has provided funding in the amount of \$25,000,000 to be distributed to State Agencies (SA) that will competitively award equipment assistance grants to eligible School Food Authorities (SFA) participating in the National School Lunch Program (NSLP). These funds will allow SFAs to purchase equipment to serve healthier meals that meet the updated meal patterns, with emphasis on more fruits and vegetables in school meals, improved safety, and expanded access. Priority for funding will be given to Recipient Agencies (RAs) in which at least 50 percent of the students are eligible for free or reduced price meals and to RAs that did not receive a previous grant award through the American Recovery and Reinvestment Act (ARRA) Food Service Equipment Grant, the FY 2010 Equipment Assistance Grant, the FY 2014 Equipment Assistance Grant, the FY 2015 National School Lunch Program Equipment Assistance Grant for School Food Authorities or the FY 2016 National School Lunch Program Equipment Assistance Grant for School Food Authorities.

The equipment purchased with the FY 2017 NSLP Equipment Assistance Grant must be used to support the federally assisted school nutrition programs. Equipment may not be purchased exclusively for programs outside of the NSLP. However, when a RA participates in other school meal programs (such as the School Breakfast Program (SBP), After School Snack Program, Fresh Fruit and Vegetable Program (FFVP), Summer Food Service Program (SFSP)), in addition to the NSLP, those other meals programs may benefit from equipment purchased with FY 2017 NSLP Equipment Assistance Grant funds. For example, if a RA participating in the NSLP and SBP purchases a new refrigerator with the FY 2017 NSLP Equipment Assistance Grant funds, food items for both federal programs may be stored in the refrigerator.

This project has been funded at least in part with Federal funds from the U.S. Department of Agriculture. The contents of this publication do not necessarily reflect the view or policies of the U.S. Department of Agriculture, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

Focus of SFA Grants

The equipment request and grant application submission **must** address how the equipment improves the quality of school meals.

The application will also address one focus area from the following:

- **Focus 1: Food Safety**
Equipment that improves the safety of food served in the school nutrition programs (e.g., cold/hot holding equipment, dishwashing equipment, refrigeration, milk coolers, freezers, blast chillers, etc.)
- **Focus 2: Efficiency of School Nutrition Operations**

Equipment that improves the overall efficiency of the school nutrition operations, including equipment that improves the energy efficiency of the school nutrition operations (e.g., purchase of an energy efficient walk-in freezer replacing an outdated, energy-demanding freezer)

- **Focus 3: Expanded Participation**

Equipment that allows SFAs to support expanded participation in the National School Lunch Program (NSLP) and/or School Breakfast Program (SBP) (e.g., equipment for serving meals in a non-traditional setting or to better utilize cafeteria space)

Eligible Applicants

All School Food Authorities (SFAs) are eligible to apply for funding for their Recipient Agencies (RA) that participate in the National School Lunch Program (NSLP), including public school districts, non-profit nonpublic schools, charter schools and residential child care institutions in the NSLP in New York State.

New SFAs in their first year of operation must receive formal approval by the SED Child Nutrition Program Office to participate in the NSLP by the deadline of submission for the FY 2017 NSLP Equipment Assistance Grant Application in order to be eligible to apply for funding.

Selected SFAs/RAs must operate the NSLP and be in good standing with all Child Nutrition Programs. Failure to abide by the requirements and regulations of all Child Nutrition Programs and/or termination from any federal or state Child Nutrition Program prior to award and/or throughout the grant award period may result in ineligibility and/or immediate loss of the awarded grant and disallowance of Equipment Grant reimbursements and recoupment of equipment grant funding. Termination from the NSLP prior to award and/or throughout the grant award period will result in immediate loss of the awarded grant and disallowance of Equipment Grant reimbursements.

SFAs must apply on behalf of their eligible RAs. **SFAs must complete a separate application for each piece of equipment requested for an eligible RA.** Requests for multiples of *the same piece of equipment* may be contained within one application for an RA, but *requests for different pieces of equipment must be submitted separately.*

Priority Funding

Eligibility

Priority for funding will be given to RAs with 50 percent or more of its students eligible for free or reduced price meals. Eligibility means the number of students who have been approved to receive free or reduced price meals based on a household application or through other certification documentation. The percentage is obtained by taking the number of students eligible for free or reduced price meals divided by the total enrollment and multiplied by 100. RAs that have 50 percent or more students eligible for free or reduced price meals in January 2017 will receive an extra 10 points during the technical review. The most recent NSLP claim for reimbursement will be used for new SFAs in their first year of operation that do not have a NSLP claim for reimbursement on file for January 2017.

Equipment requests for central kitchens will also be considered. If 50 percent of the combined enrollment of all RAs served by the central kitchen is eligible for free or reduced priced meals, the application will receive an extra 10 points during the technical review.

Participation

Average Daily Participation (ADP) means the average number of children participating in the NSLP each operating day. These numbers are obtained by dividing the total number of lunches claimed during a reporting period by the number of operating days in the same period. RAs that have a high level of participation in the NSLP will receive an extra 5 points towards their overall score. To determine the level of participation for a RA, the ADP for each RA in the month of January 2017 will be divided by the total enrollment and multiplied by 100. The most recent NSLP claim for reimbursement will be used for new SFAs in their first year of operation that do not have a NSLP claim for reimbursement on file for January 2017.

Applications submitted for RAs where 40 percent or more of the enrolled children participate in NSLP will be awarded an additional 5 points.

Previously Awarded RAs

RAs that did not receive a previous grant award through the American Recovery and Reinvestment Act (ARRA) Food Service Equipment Grant, the FY 2010 Equipment Assistance Grant, the FY 2014 Equipment Assistance Grant, the FY 2015 National School Lunch Program Equipment Assistance Grant for School Food Authorities or the FY 2016 National School Lunch Program Equipment Assistance Grant for School Food Authorities will receive an extra 10 points towards their overall score. [A list of RAs that previously received an equipment grant is available at http://www.p12.nysed.gov/funding/currentapps.html](http://www.p12.nysed.gov/funding/currentapps.html).

Equipment Definition

Equipment requests may include: new equipment, used equipment, renovation of equipment (excluding renovations that are valued under \$5,000), and replacement of equipment.

Regulations at 2 CFR Part 200.33 define equipment as tangible personal property, having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000 per unit. This definition will be used for purposes of this grant and recording of equipment costs.

Capitalization Threshold Policy

A capitalization threshold policy is a policy developed and implemented by the SFA. The policy states the dollar amount at which your organization considers an item to be equipment for financial statement purposes rather than supplies and materials. SFAs should have a capitalization threshold policy covering grant equipment requests that establishes the dollar value for capitalized equipment and other capital out-lay materials. SFAs may use lesser amounts (known as "capitalization thresholds") to define equipment (i.e., a \$2,000 capitalization threshold instead of \$5,000). Items classified as supplies under the Federal definition may be purchased as equipment with equipment assistance grant funds if the per-unit acquisition cost equals or exceeds the local capitalization threshold. SED may accept an RA's capitalization threshold policy, rather than the SFA's policy, if the RA operates independently and only relies upon the organization serving as the SFA to oversee its participation in the federal Child Nutrition Programs (CNP). **Documentation of the policy must be submitted for equipment that is less than \$5,000. The policy must show that the equipment cost equals or exceeds the capitalization threshold.**

Multiple items whose per-unit acquisition cost is less than \$5,000 may not be combined together to meet the \$5,000 threshold. Unless an item is required to put the equipment in operation an applicant cannot combine smaller items to meet the Federal, State or local equipment threshold, whichever is more limiting.

Acquisition Cost

Acquisition cost is defined as the net invoice unit price of the property, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property useable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee’s regular accounting practices.

Please Note: Under no circumstance will a grant be awarded for an item costing less than \$2,000. This grant does not apply to equipment that has already been purchased. FY 2017 Equipment Assistance Grant funding may not be used to purchase items that are used solely for the sale of a la carte products.

As with all federal funds, the equipment purchases must be necessary, reasonable and allocable. Using these funds to purchase a walk-in freezer for school nutrition programs is an allowable cost; however renovation of the school nutrition area would fall under the category of construction costs which must be charged to the school general fund or capital outlay fund.

The following list is intended to serve as a guideline when considering equipment options. SFAs are not limited to the items listed. Equipment requested should contribute to improving your Child Nutrition Programs.

Prep Tables	Salad Service Table
Cooking Equipment	Reimbursable Meal Vending Machine
Refrigeration Units	Slicer
Cold/Hot Holding Equipment	Serving Line Equipment
Prep Tables	Dishwashing Equipment
Cooking Equipment	Mixer
Refrigeration Units	Salad Service Table

Application Instructions

Each application shall include the following:

- One thoroughly completed application form (including all parts) and two hardcopies.
- SFA Capitalization Threshold Policy for any equipment requested with a unit cost that is less than \$5,000. The policy must show that the equipment cost equals or exceeds the local capitalization threshold. (If this policy is required and not included, the application will be disqualified)
- A current Certificate of Occupancy and fire inspection for the RA in which the equipment will be placed. (Non-public schools only—if an application for a non-public school does not include these required items, the application will be disqualified)
- Price quotes, equipment specification sheets and other supporting documentation to substantiate the equipment request.

- One FS-10 Budget to cover all the participating RAs with an original signature. The form is available for download here: <http://www.oms.nysed.gov/cafe/forms/>. Please refer to SED’s Fiscal Guidelines for Federal and State Grants for additional information: <http://www.oms.nysed.gov/cafe/guidance/guidelines.html>

*A separate application must be submitted for **each piece of equipment for each Recipient Agency (RA)** requesting funds and application requests must be a minimum of \$2,000 (with applicable capitalization threshold policy, if applicable) up to a maximum of \$20,000 **per RA**, in order to be eligible for funding.*

If a requested piece of equipment would be unusable without additional pieces, the SFA may include multiple items on the same application (i.e. walk-in freezer requires a compressor to operate). However, if the requested piece of equipment can operate alone, then separate applications must be completed for each requested item (i.e. stand-alone milk cooler, salad bar etc.).

Food Service Line

In cases where the SFA wishes to apply for an entire serving line, all items must be included on one application and the SFA must clearly identify the per-unit cost of each individual piece of equipment by completing the Equipment Request section of the application form for each piece of equipment requested for the serving line. Additionally, each individual piece of equipment must meet the equipment definition as defined in the “Equipment Definition” section of this RFP. SED reserves the right to remove any unallowable or inappropriate items from the request.

Electronic Point of Sale (POS) System

SFAs may apply for an electronic POS system to assist in the daily operations of the food service operation. The request for a POS system must meet the equipment definition as defined in the “Equipment Definition” section of this RFP. The SFA must clearly identify the cost of the POS system and must clearly indicate the Recipient Agency (RA) that the POS system will be used in.

Application Form

The application form contains 5 required parts:

1. General Information
 - All questions in this part must be completed thoroughly
2. Contact Information
 - All questions in this part must be completed thoroughly
3. Certification
 - The SFA should fully read the written certification. Please also read the assurances and the Federal terms and conditions as outlined in this RFP. The certification must be signed by the SFAs Chief School/Administrative Officer for the application to be considered. The Food Service Director may not sign the written certification.
 - The following administrators are authorized to sign the certification, in cases of public schools – the Superintendent of the school district or their duly authorized designee; in cases of not for profit corporations operating recognized non-public schools or in cases of public or private non-profit residential childcare institutions – the officer of the corporation (e.g. Executive Director or their duly authorized designee); and in cases of

charter schools – the chief school officer, administrator or their duly authorized designee.

4. Equipment Request

- The Equipment Request chart must be thoroughly completed to identify the equipment item requested and all related costs. Please be specific. The total cost provided will help determine the award amount.
- Applicants will be awarded up to 5 Points for completing this part. Please see the Selection Criteria Form.

5. Questions

- There are 4 required sections under the Questions part of the application form
 - i. Section 1: Recipient Agency Equipment Needs
 - ii. Section 2: Quality Improvement
 - iii. Section 3: Focus Areas (Please see the Focus of SFA Grants section of this RFP)
 - Focus 1: Food Safety
 - Focus 2: Efficiency of school nutrition operations
 - Focus 3: Expanded Participation
 - iv. Section 4: Research and Budget
 - SFAs should carefully review the instructions listed on the application form

Applicants must provide detailed responses to all questions in sections 1, 2, and 4. Section 3 consists of three separate focus areas. Applicants must select ONE of the three focus areas and provide detailed responses to all questions applicable to the focus area selected. No additional points will be awarded in the event that responses are provided to questions in more than one focus area. If the SFA provides responses to more than one focus area, points will only be awarded for the first focus area addressed. Applicants will be awarded up to 44 total points for completing the Questions part of the application. Please see the Selection Criteria Form.

Required Documents

Applications that do not contain required documentation will be disqualified and will not be considered. The following documents are required:

- A copy of the RA's current Certificate of Occupancy and Fire Inspection (for non-public schools only)
- A copy of SFA's capitalization threshold policy (This is required for any piece of equipment requested that has a unit value of less than \$5,000. See the Equipment Definition section of the RFP for details.)

New Prequalification Requirement

The State of New York has implemented a new statewide prequalification process (described in <http://www.grantsreform.ny.gov/Grantees>) designed to facilitate prompt contracting for not-for-profit vendors. All not-for-profit vendors are required to pre-qualify by the grant application deadline in order to receive an award under this RFP. This includes all currently funded not-for-profit institutions that have already received an award and are in the middle of the program cycle. Please review the additional information regarding this requirement in the Prequalification for Individual Applications section below.

Method of Awarding Grants

SFAs must submit a separate application for each piece of equipment requested for each Recipient Agency. If any piece of equipment requested has a value less than \$5,000, the SFA's capitalization threshold policy is required to be submitted in order for the application to be reviewed. **If a required capitalization threshold policy is not submitted with the application, the application will not be considered.**

Applications from eligible applicants that are postmarked on or before the due date will be scored using the Selection Criteria Form.

Each application will be reviewed by two reviewers. The scores of the two reviewers will be averaged to obtain the final average score.

A third review will be performed if there is a difference of more than eight (8) points between the two scores. In cases where a third review is necessary, all three scores will be averaged to obtain the final average score.

Applications will be ranked according to score from highest to lowest. In a case where two or more applicants receive the same evaluation score and funds are not available to fully fund those applications, the application that received the highest average score on question 2a under Section 2 of the Selection Criteria Form will be ranked higher. If there is also a tie score on question 2a, the average score for question 1a in Section 1 will be used as the tie-breaker. The Recipient Agency's enrollment will be used as a third tie-breaker, if necessary. Awards will be made for applications in rank order of average final score until funds are exhausted or there are no fundable applications remaining. If any remaining funds are insufficient to award the next-highest ranked eligible application in full, that applicant will be offered a partial award. ***No SFA may receive more than a combined \$20,000 for an individual Recipient Agency.***

SED will not consider any unallowable or inappropriate items from the SFA's/RA's requests.

Awards will be made for specific equipment pieces for specific dollar amounts. Funding for one piece of equipment cannot be used to cover the cost of another piece of awarded equipment.

Guidelines for Award

New York State must comply with the statutory requirement that grants are to be based on the **need** for equipment assistance in participating Recipient Agencies (RA). SFAs should address the following factors when completing the grant application:

- How the equipment will benefit the programs
- Contribution to improving quality of school meals
- Expected increase in participation or number of sites in which school meals are served
- Age of current food service equipment
- Strategies for adopting Smarter Lunchrooms
- Opportunities to realize a meaningful impact on nutrition and quality of meals

As part of the application, SFAs should document the procurement process for the purchasing of commercial equipment. It is in the best interest of the SFA to thoroughly investigate a variety of options and products.

- Cost of commercial equipment plus installation cost
- Cost for disposal of old equipment
- Specification sheets
- Acquisition Costs:
 - The definition of acquisition cost is the net invoice unit price of the property, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property useable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.
- Any other necessary costs: labor, installation, etc. (direct labor costs only-do not include indirect costs)

The FY 2017 NSLP Equipment Assistance Grants are close-ended grants with fixed budgets. Therefore, the FY 2017 NSLP Equipment Assistance Grants are not part of the child nutrition cluster. Receiving funds from this grant opportunity may put the SFA above the \$750,000 threshold which would require the SFA to conduct an organization-wide audit in accordance with OMB Circular A-133, instead of a program specific audit. Any recipient that expends \$750,000 or more in Federal funds must conduct a Single Audit in accordance with A-133.

Funds received through this grant cannot be combined with other school nutrition funds and must be tracked and reported separately. The Catalog of Federal Domestic Assistance (CFDA) number for the equipment assistance grants is 10.579.

This is a wonderful opportunity for schools to improve upon their existing program. Food service equipment can impact a variety of areas including food preparation, food service and clean up. It is in the school's best interest to carefully and thoroughly research and evaluate the options available.

Debriefing Procedures

All unsuccessful applicants may request a debriefing within fifteen (15) calendar days of receiving notice from NYSED. Applicants may request a debriefing on the selection process regarding this Grant by emailing the request to foodequip@nysed.gov or by mail to:

NYS Education Department
Contract Administration Unit
Attn: GC18-018
89 Washington Avenue
Room 501W EB
Albany, NY 12234

A summary of the strengths and weaknesses of the application, as well as recommendations for improvement will be sent to the applicant within ten (10) business days.

Award Protest Procedures

Applicants who receive a notice of non-award or disqualification may protest the NYSED award decision subject to the following:

1. The protest must be in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the contract award by NYSED. **The protest must be filed within ten (10) business days of receipt of the notice of non-award. The protest letter must be filed with:**

NYS Education Department
Contract Administration Unit
Attn: GC18-018
89 Washington Avenue
Room 501W EB
Albany, NY 12234

2. The NYSED Contract Administration Unit (CAU) will convene a review team that will include at least one staff member from each of NYSED's Office of Counsel, CAU, and the Program Office. The review team will review and consider the merits of the protest and will decide whether the protest is approved or denied. Counsel's Office will provide the applicant with written notification of the review team's decision within seven (7) business days of the receipt of the protest. The original protest and decision will be filed with OSC when the contract procurement record is submitted for approval and CAU will advise OSC that a protest was filed.
3. The NYSED Contract Administration Unit (CAU) may summarily deny a protest that fails to contain specific factual or legal allegations, or where the protest only raises issues of law that have already been decided by the courts.

Procurement

As with all federal grant funds, procurement regulations at 7 CFR Part 210.21 and 2 CFR Part 200.317-326 apply and **SFAs must follow regulations at 2CFR Part, 200: Subpart E, Cost Principles.**

Equipment competitively procured using these grant funds must be necessary, reasonable and allocable. **All SFAs, including those using the services of a Food Service Management Company, must adhere to the federal, State and local procurement requirements.**

SFAs should:

- Ensure the purchase system allows for open and free competition.
- Maintain a contract system ensuring contractors comply with the specifications of their contracts or purchase orders
 - Give consideration to contractor integrity, compliance with public policy, record of past performance and financial and technical resources.
- Maintain written selection procedures for procurement process
 - Include a clear and accurate description of requirements for the product that does not unduly restrict competition.

- Make sure all lists of suppliers are current and include enough qualified sources to allow for maximum open and free competition.

It is strongly recommended that SFAs consider the following best practices to assist in upgrading food service equipment to serve healthier meals:

- School officials and local policymakers should work collaboratively with parents, teachers, students and funders to identify and implement strategies for meeting equipment, infrastructure, and training needs.
- Nonprofit and for-profit organizations that have an interest in improving children’s health, education, school infrastructure, and community wellness should provide assistance to schools in acquiring the necessary equipment.

Please Note: The terms of the agreement between State agencies and each SFA, require SFAs to retain their program-related records for a period of **3 years** from the day the SFA's final allowable payment under the contract has been recorded.

Reporting Requirements and Payments

Equipment records must be maintained that include the description of the equipment, the serial number or other identification number, the source of the equipment, the title holder, the acquisition date, the cost of the equipment, the location, use and condition of equipment, and any ultimate disposition data including the date of disposal and the sale price of the equipment.

SFAs will be required to submit information regarding the equipment grant funds.

Along with the items noted above, be prepared to substantiate:

- Progress made in expending funds
- Types of equipment purchased
- Total funds expended for each school
- Total obligations and expenditures
- Serial number of purchased equipment
- Impact on the school food service operation of purchased equipment
- Accomplishments and challenges in expenditure activities
- Potential return of equipment
- Reason(s) for unliquidated funds
- Additional reporting requirements will be forthcoming based on OMB guidance

SFAs are required to make all records pertaining to activities under the grant available for audit/review purposes.

Payments will be made on a reimbursement basis and requests for reimbursement should be submitted to SED Child Nutrition Program Office as soon as possible after equipment is purchased. To receive reimbursement, SFAs will be required to submit an FS-10F budget form and include paid purchase invoices/receipts for the awarded/purchased equipment.

Please see the Fiscal Guidelines for Federal and State Grants for additional information:
<http://www.oms.nysed.gov/cafe/guidance/guidelines.html/>

Prequalification for Individual Applications

Pursuant to the New York State Division of Budget Bulletin H-1032, dated June 7, 2013, New York State has instituted key reform initiatives to the grant contract process which require not-for-profits to register in the Grants Gateway and complete the Vendor Prequalification process in order for proposals to be evaluated. Information on these initiatives can be found on the [Grants Reform Website](http://www.grantsreform.ny.gov/) (<http://www.grantsreform.ny.gov/>).

Proposals received from not-for-profit applicants that have not Registered and are not Prequalified in the Grants Gateway on the proposal due date of 5:00 PM on January 19, 2018 cannot be evaluated. Such proposals will be disqualified from further consideration

Below is a summary of the steps that must be completed to meet registration and prequalification requirements. The [Vendor Prequalification Manual](http://www.grantsreform.ny.gov/sites/default/files/docs/VENDOR_POLICY_MANUAL_V.2_10.10.13.pdf) (http://www.grantsreform.ny.gov/sites/default/files/docs/VENDOR_POLICY_MANUAL_V.2_10.10.13.pdf) on the Grants Reform Website details the requirements and an [online tutorial](http://grantsreform.ny.gov/youtube) (<http://grantsreform.ny.gov/youtube>) are available to walk users through the process.

1. Register for the Grants Gateway.
 - On the Grants Reform Website, download a copy of the [Registration Form for Administrator](http://grantsreform.ny.gov/sites/default/files/RegistrationFormforAdministratorfillable.pdf) (<http://grantsreform.ny.gov/sites/default/files/RegistrationFormforAdministratorfillable.pdf>). A signed, notarized original form must be sent to the Division of Budget at the address provided in the instructions. You will be provided with a Username and Password allowing you to access the Grants Gateway.
 - If you have previously registered and do not know your Username please email grantsreform@budget.ny.gov. If you do not know your Password please click the [Forgot Password](https://grantsgateway.ny.gov/IntelliGrants_NYSGG/PersonPassword2.aspx?Mode=Forgot) (https://grantsgateway.ny.gov/IntelliGrants_NYSGG/PersonPassword2.aspx?Mode=Forgot) link from the main log in page and follow the prompts.

2. Complete your Prequalification Application.
 - Log in to the [Grants Gateway](https://grantsgateway.ny.gov/IntelliGrants_NYSGG/login2.aspx) (https://grantsgateway.ny.gov/IntelliGrants_NYSGG/login2.aspx) If this is your first time logging in, you will be prompted to change your password at the bottom of your Profile page. Enter a new password and click SAVE.
 - Click the *Organization(s)* link at the top of the page and complete the required fields including selecting the State agency you have the most grants with. This page should be completed in its entirety before you SAVE. A *Document Vault* link will become available near the top of the page. Click this link to access the main Document Vault page.
 - Answer the questions in the *Required Forms* and upload *Required Documents*. This constitutes your Prequalification Application. Optional Documents are not required unless specified in this Request for Proposal.

- Specific questions about the prequalification process should be referred to your agency representative at prequal@nysed.gov or to the Grants Reform Team at grantsreform@budget.ny.gov.

3. Submit Your Prequalification Application.

- After completing your Prequalification Application, click the *Submit Document Vault* Link located below the Required Documents section to submit your Prequalification Application for State agency review. Once submitted the status of the Document Vault will change to *In Review*.
- If your Prequalification reviewer has questions or requests changes you will receive email notification from the Gateway system.
- Once your Prequalification Application has been approved, you will receive a Gateway notification that you are now prequalified to do business with New York State.

Vendors are strongly encouraged to begin the process as soon as possible in order to participate in this opportunity.

Minority and Women-Owned Business Enterprise (M/WBE) Participation Goals Pursuant to Article 15-A of the New York State Executive Law

NYSED has not established M/WBE goals for this grant. Nevertheless, NYSED remains committed to promoting the participation of certified Minority and Women-Owned Business Enterprises to the greatest extent possible. Therefore, NYSED strongly encourages applicants to seek New York State certified M/WBE subcontractors at a participation rate of 30%.

NYSED's Reservation of Rights

NYSED reserves the right to: (1) reject any or all proposals received in response to the RFP; (2) withdraw the RFP at any time, at the agency's sole discretion; (3) make an award under the RFP in whole or in part; (4) disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the RFP; (5) seek clarifications of proposals; (6) use proposal information obtained through site visits, management interviews and the state's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFP; (7) prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available; (8) prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments; (9) change any of the scheduled dates; (10) waive any requirements that are not material; (11) negotiate with the successful bidder within the scope of the RFP in the best interests of the state; (12) conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder; (13) utilize any and all ideas submitted in the proposals received; (14) unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 90 days from the bid opening; (15) require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation; (16) to request best and final offers.

Resources

“Procurement Services.” New York State Office of General Services. This resource is available at <http://www.ogs.state.ny.us/purchase/contact.asp>

“*Equipment Purchasing and Facility Design for School Nutrition Programs*,” (National Food Service Management Institute NFSMI 2013) provides information on purchasing equipment for school nutrition programs. This resource is available on NFSMI’s website at <http://www.nfsmi.org/documentlibraryfiles/PDF/20130820034348.pdf>

RFP #GC18-018: FY 2017 National School Lunch Program (NSLP) Equipment Assistance Grant for School Food Authorities (SFAs)

Application Checklist

SFA Name: _____
RA Name: _____
Equipment Requested: _____

Prior to submitting your Equipment Assistance Grant Application, ensure that the submission includes all of the requested components and meets mandatory grant requirements. Include this checklist with the submission to verify that necessary materials have been included.

- Each SFA submission should include the following and be post-marked by the application deadline of January 19, 2018:**
- One combined FS-10 Budget Form for the SFA that includes equipment applications for all RAs within the SFA.
 - One completed Application Checklist for each application. A separate application must be submitted for each piece of equipment requested (unless requested piece of equipment would be unusable without additional pieces).
 - One signed original copy (with an original signature) and two hardcopies of each grant application form for each piece of requested equipment, which includes:
 - Completion of parts 1 through 4 and detailed responses to part 5 of the application form
 - Supporting documentation to substantiate the cost of each piece of requested equipment.
 - A copy of the Capitalization Threshold Policy (if any piece of requested equipment has a unit value of less than \$5,000).
 - A copy of the RA's Certificate of Occupancy (non-public schools only).
 - A copy of the RA's most recent Fire Inspection (non-public schools only).
 - Is the applicant prequalified, if required? (While no documentation is required with the application, the applicant may be required to prequalify in order to be eligible for this grant opportunity).

Has the applicant complied with the application instructions? Yes No

SED Comments: _____

SED Reviewer: _____ **Date:** _____

As a reminder, Equipment Assistance Grant Applications will not be considered if an applicant is considered ineligible or if any of the mandatory requirements are not met.

Mandatory Application Requirements:

- Not-for-profit applicants must be Prequalified in the Grants Gateway by the application deadline. Additional information is provided in the Prequalification for Individual Applicants section.
- Applications must be submitted by an eligible applicant that is currently approved to participate in NSLP or that receives formal SED approval to operate NSLP by the application deadline.
- Applications must request equipment that is allowable under this RFP, and has a minimum award value of \$2,000. See the Equipment Definition section of the RFP for details.
- If the applicant is requesting equipment with a unit cost that is less than \$5,000, the application must include a copy of the Capitalization Threshold Policy that demonstrates that the equipment cost equals or exceeds the capitalization threshold.
- All non-public applicants must include a current Certificate of Occupancy and fire inspection for the RA in which the equipment will be placed.

RFP #GC18-018: FY 2017 National School Lunch Program (NSLP) Equipment Assistance Grant for School Food Authorities (SFAs)

Application Form

Please respond carefully to the questions. The answers will be used by the State Education Department (SED) to score the application. The material should be well-presented, well-organized, complete, clear and concise. **Carefully read the Guidance Manual before beginning the application process.** School Food Authorities (SFAs) must complete a separate application for each piece of equipment for each Recipient Agency (RA) requesting funds. Requests for multiples of the same piece of equipment may be contained within one application for an RA, but requests for different pieces of equipment must be submitted separately. Please limit responses to the space provided. **Each application should contain one original and two hardcopies of the complete application. *The application must be signed by the applicant’s chief school/administrative officer to be considered (See RFP). The food service director may not sign the application.**

Applications must be **postmarked by** January 19, 2018 and sent to the following address:

New York State Education Department
Child Nutrition Program Administration
RFP #GC18-018 NSLP Equipment Assistance Grant
89 Washington Avenue Room 375EBA
Albany, NY 12234

Applications without the following supporting documentation will not be considered:

- Certificate of Occupancy and Fire Inspection. (This is required for non-public schools only)
- Copy of SFA’s Capitalization Threshold Policy. (This is required if any piece of equipment requested has a unit value less than \$5,000. See the Equipment Definition section of the RFP for details.)

Part 1 – General Information

School Food Authority (SFA): _____

12 Digit SFA LEA Code:

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School/ Recipient Agency (RA): _____

12 Digit SFA LEA Code:

--	--	--	--	--	--	--	--	--	--	--	--

Recipient Agency Address: _____

- Recipient Agency participates in:
- National School Lunch Program
 - School Breakfast Program
 - Afterschool Snack Program
 - Fresh Fruit and Vegetable Program

- Recipient Agency building is:
- Owned by SFA
 - Rented/leased building
- * You may be asked to supply additional documentation relating to the physical location where the equipment will be used.

Food preparation method: On-site
 Satellite
 Vended- Name of Vendor _____

Is the Recipient Agency used as a Central Kitchen? No
 Yes
If yes, list RAs served: _____

Part 2 – Contact Information

Primary Contact:

_____ Name	_____ Title
_____ Email	_____ Phone Number

Food Service Director:

_____ Name	_____ Title
_____ Email	_____ Phone Number

Fiscal Contact:

_____ Name	_____ Title
_____ Email	_____ Phone Number

Part 3 – Certification

I hereby certify that I am the applicant’s chief school/administrative officer and that the information contained in this application is, to the best of my knowledge, complete and accurate. I further certify, to the best of my knowledge, that any ensuing program and activity will be conducted in accordance with all applicable Federal and State laws and regulations, application guidelines and instructions, Assurances, Certifications, Appendix A, Appendix A-1G and that the requested budget amounts are necessary for the implementation of this project. It is understood by the applicant that this application constitutes an offer and, if accepted by the NYS Education Department or renegotiated to acceptance, will form a binding agreement. It is also understood by the applicant that immediate written notice will be provided to the grant program office if at any time the applicant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The equipment acquired with these funds will be used in the non-profit National School Lunch Program to meet the nutritional needs of the students. I have read and understand the guidelines of the program, and, if selected, agree to implement the grant as outlined above in a manner consistent with the policies and procedures established by the United States Department of Agriculture (USDA). I agree to participate in any USDA-sponsored evaluation and to provide the information requested by the specified deadlines.

I certify that the equipment acquired with these funds will be procured in accordance with Federal, State and local procurement requirements that are required in 7 CFR Part 210.

_____ Signature	_____ Date
_____ Name (Please print)	_____ Title

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.

Part 4 – Equipment Request (5 Points)

Complete the following chart to identify the equipment item requested including all related costs. Please be specific. The total cost provided will help determine the award amount. Please provide supporting documentation (price quotes, equipment specification sheets, etc.) for requested items.

Equipment Name/ Description: _____

Equipment is:

- New Equipment
- Renovation of old equipment
- Replacement equipment

Make & Model: _____

Size: _____

Primary Use: _____

Equipment Cost: \$ _____

Delivery Cost: \$ _____

Installation Cost: \$ _____

Disposition of Old Equipment Cost: \$ _____

Other Cost (specify): \$ _____

Total Per-Unit Request: \$ _____

Number Requested: _____

Total Request:

(Per-Unit Cost multiplied by Number requested) \$ _____

SFAs who wish to replace an entire serving line, may complete one set of application questions (Part 5 of this application form), however, a separate Equipment Request chart **MUST** be completed for each piece of equipment requested for the serving line to identify the per-unit cost.

Please refer to the Guidance Manual for additional information.

Part 5 – Questions

Instructions

There are 4 required sections (Section 1: Recipient Agency Equipment Needs, Section 2: Quality Improvement, Section 3: Focus Areas and Section 4: Research and Budget). Points will be awarded based upon your responses to the required questions as well as the selected focus area questions in Section 3.

All applicants must provide detailed responses to all questions in sections 1, 2, and 4.

Section 3 consists of 3 separate focus areas (Focus 1: Food Safety, Focus 2: Efficiency of school nutrition operations, Focus 3: Expanded Participation).

Applicants must select ONE of the three focus areas and provide detailed responses to all questions applicable to the focus area selected.

Please indicate which one of the focus areas has been selected in the checkbox below:

- Focus 1: Food Safety
- Focus 2: Efficiency of school nutrition operations
- Focus 3: Expanded Participation

*Please Note: No additional points will be awarded in the event that responses are provided to questions in more than one focus area. If the SFA provides responses to more than one focus area, points will be awarded for the first focus area addressed only.

Section 1 – Recipient Agency Equipment Needs

1(a)

Explain in detail why the current equipment/or lack of equipment is not meeting the needs of the NSLP? Include the age of existing equipment. (10 Points)

Section 2: Quality Improvement

2(a) Explain how the equipment will improve the overall quality of meals served. Please include a detailed description of the specific improvements (improved cooking methods, improved appearance and/or taste, new food items and/or recipes, improved nutrition quality etc.). (10 Points)

Section 3: Focus Areas

Select one focus area and answer the questions for that focus area only. (There are only twelve (12) points available for this section. An applicant will not be awarded additional points for addressing more than one focus area. If more than one focus area is addressed, NYSED will score the response to the first focus area.)

Focus 1: Food Safety

3(a) How does this equipment improve the safety of preparing, serving and/or storing food? Please explain. Include any health department citations. (6 Points)

3(b) Explain how the SFA is currently experiencing challenges related to the safety of preparing, serving and/or storing food. (6 Points)

Focus 2: Efficiency of school nutrition operations

3(c)

How will the new equipment improve the overall energy efficiency of the school foodservice operation?
Please Explain (6 Points)

3(d)

Explain the specific processes that will change to increase efficiency of the school nutrition operations due to the new equipment? Response may include a description of change in meals per labor hour, paperwork reduction etc. (6 Points)

Focus 3: Expanded Participation

3(e)

How will the equipment allow for expanded participation in the NSLP and/or SBP? Please explain. (6 Points)

3(f)

Explain the specific strategies the SFA will be able to employ to increase the number of students participating in the NSLP/SBP. (6 Points)

Section 4: Research and Budget (Required)

4(a)

Describe the research that was conducted and the information collected **to determine correct size, model, quality, and value of the item/s selected**. Include the individuals involved in the process and specific models that were researched. Supporting documentation may be supplied (emails, inquiries, equipment specification sheets etc.) (4 points)

4(b)

Describe the procurement process used to obtain the **best possible price** for the item requested. Include specific equipment vendors that were contacted. (4 Points)

4(c)

Identify the supporting documentation included with this application to substantiate the cost requested. Supporting documentation may include quotes for equipment, labor, installation and delivery costs, etc. Complete the following chart with supporting documentation for three vendors supplying the equipment requested. (4 Points)

1.	Vendor Name: _____
	Total Equipment Acquisition Cost: \$ _____
2.	Vendor Name: _____
	Total Equipment Acquisition Cost: \$ _____
3.	Vendor Name: _____
	Total Equipment Acquisition Cost: \$ _____

Appendix A
STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently

and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair

Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
[MWBE Directory](#)

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. **IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("[Prohibited Entities List](#)").

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

(January 2014)

APPENDIX A-1 G

General

- A. In the event that the Contractor shall receive, from any source whatsoever, sums the payment of which is in consideration for the same costs and services provided to the State, the monetary obligation of the State hereunder shall be reduced by an equivalent amount provided, however, that nothing contained herein shall require such reimbursement where additional similar services are provided and no duplicative payments are received.
- B. This agreement is subject to applicable Federal and State Laws and regulations and the policies and procedures stipulated in the NYS Education Department Fiscal Guidelines found at <http://www.nysed.gov/cafe/>.
- C. For each individual for whom costs are claimed under this agreement, the contractor warrants that the individual has been classified as an employee or as an independent contractor in accordance with 2 NYCRR 315 and all applicable laws including, but not limited to, the Internal Revenue Code, the New York Retirement and Social Security Law, the New York Education Law, the New York Labor Law, and the New York Tax Law. Furthermore, the contractor warrants that all project funds allocated to the proposed budget for Employee Benefits, represent costs for employees of the contractor only and that such funds will not be expended on any individual classified as an independent contractor.
- D. Any modification to this Agreement that will result in a transfer of funds among program activities or budget cost categories, but does not affect the amount, consideration, scope or other terms of this Agreement must be approved by the Commissioner of Education and the Office of the State Comptroller when:
 - a. The amount of the modification is equal to or greater than ten percent of the total value of the contract for contracts of less than five million dollars; or
 - b. The amount of the modification is equal to or greater than five percent of the total value of the contract for contracts of more than five million dollars.
- E. Funds provided by this contract may not be used to pay any expenses of the State Education Department or any of its employees.

Terminations

- A. The State may terminate this Agreement without cause by thirty (30) days prior written notice. In the event of such termination, the parties will adjust the accounts due and the Contractor will undertake no additional expenditures not already required. Upon any such termination, the parties shall endeavor in an orderly manner to wind down activities hereunder.

Responsibility Provisions

A. General Responsibility Language

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of Education or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

B. Suspension of Work (for Non-Responsibility)

The Commissioner of Education or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Education or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

C. Termination (for Non-Responsibility)

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate SED officials or staff, the Contract may be terminated by the Commissioner of Education or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of Education or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

Safeguards for Services and Confidentiality

- A. Any copyrightable work produced pursuant to said agreement shall be the sole and exclusive property of the New York State Education Department. The material prepared under the terms of this agreement by the Contractor shall be prepared by the Contractor in a form so that it will be ready for copyright in the name of the New York State Education Department. Should the Contractor use the services of consultants or other organizations or individuals who are not regular employees of the Contractor, the Contractor and such organization or individual shall, prior to the performance of any work pursuant to this agreement, enter into a written agreement, duly executed, which shall set forth the services to be provided by such organization or individual and the consideration therefor. Such agreement shall provide that any copyrightable work produced pursuant to said agreement shall be the sole and exclusive property of the New York State Education Department and that such work shall be prepared in a form ready for copyright by the New York State Education Department. A copy of such agreement shall be provided to the State.
- B. All reports of research, studies, publications, workshops, announcements, and other activities funded as a result of this proposal will acknowledge the support provided by the State of New York.
- C. This agreement cannot be modified, amended, or otherwise changed except by a written agreement signed by all parties to this contract.
- D. No failure to assert any rights or remedies available to the State under this agreement shall be considered a waiver of such right or remedy or any other right or remedy unless such waiver is contained in a writing signed by the party alleged to have waived its right or remedy.
- E. Expenses for travel, lodging, and subsistence shall be reimbursed in accordance with the policies stipulated in the aforementioned Fiscal guidelines.
- F. No fees shall be charged by the Contractor for training provided under this agreement.
- G. Nothing herein shall require the State to adopt the curriculum developed pursuant to this agreement.
- H. All inquiries, requests, and notifications regarding this agreement shall be directed to the Program Contact or Fiscal Contact shown on the Grant Award included as part of this agreement.
- I. This agreement, including all appendices, is, upon signature of the parties and the approval of the Attorney General and the State Comptroller, a legally enforceable contract. Therefore, a signature on behalf of the Contractor will bind the Contractor to all the terms and conditions stated therein.
- J. The parties to this agreement intend the foregoing writing to be the final, complete, and exclusive expression of all the terms of their agreement.

Rev. 5/12/14

New York State Education Department

Assurances for Federal Discretionary Program Funds

The following assurances are a component of your application. By signing the certification on the application cover page you are ensuring accountability and compliance with State and federal laws, regulations, and grants management requirements.

Federal Assurances and Certifications, General:

- Assurances – Non-Construction Programs
- Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters
- Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
- General Education Provisions Act Assurances
- Drug-Free Workplace

Federal Assurances and Certifications, NCLB (if appropriate):

The following are required as a condition for receiving any federal funds under the Elementary and Secondary Education Act. (ESEA)

- ESEA Assurances

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Education Department Program Contact listed in the Application. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, and by signing the Application Cover Page, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) "§§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§" 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a

result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328), which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.), which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

**Standard Form 424B (Rev. 7-97), Prescribed by OMB Circular A-102, Authorized for Local
Reproduction, as amended by New York State Education Department**

**CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of the Application Cover Page provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement:
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- c. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

- A. The applicant certifies that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in

- connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and
 - d. Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and
- B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

ED 80-0013, as amended by the New York State Education Department

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND
VOLUNTARY EXCLUSION — LOWER TIER COVERED TRANSACTIONS**

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing the Application Cover Page, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ED 80-0014, as amended by the New York State Education Department

**NEW YORK STATE DEPARTMENT OF EDUCATION
GENERAL EDUCATION PROVISIONS ACT ASSURANCES**

These assurances are required by the General Education Provisions Act for certain programs funded by the U.S. Department of Education. These assurances are not applicable to certain programs, such as the No Child Left Behind Act. If you have any questions, please contact NYSED.

As the authorized representative of the applicant, by signing the Application Cover Page, I certify that:

1. the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;
2. the control of funds provided to the local educational agency under each program, and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;
3. the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that agency under each program;
4. the local educational agency will make reports to the State agency or board and to the Secretary as may reasonably be necessary to enable the State agency or board and the Secretary to perform

their duties and that the local educational agency will maintain such records, including the records required under section 1232f of this title, and provide access to those records, as the State agency or board or the Secretary deem necessary to perform their duties;

5. the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;
6. any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;
7. in the case of any project involving construction -
 - a. the project is not inconsistent with overall State plans for the construction of school facilities, and
 - b. in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 794 of title 29 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by individuals with disabilities;
8. the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects; and
9. none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 2 CFR 3485, Subpart F, for grantees, as defined at 2 CFR 3485 -

- A. The applicant certifies that it will or will continue to provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - b. Establishing an on-going drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. The grantee's policy of maintaining a drug-free workplace;

3. Any available drug counseling, rehabilitation, and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - d. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 1. Abide by the terms of the statement; and
 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - e. Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Professional, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;
 - f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).
- B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, and zip code)

Check [] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 2 CFR 3485, Subpart F, for grantees, as defined at 2 CFR 3485 -

- A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

- B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Professional, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant

**NEW YORK STATE DEPARTMENT OF EDUCATION
ELEMENTARY AND SECONDARY EDUCATION ACT (ESEA) ASSURANCES**

These assurances are required for programs funded under the Elementary and Secondary Education Act as amended by the Every Student Succeeds Act of 2015.

As the chief school officer of the applicant, by signing the Application Cover Page, I certify that:

- (1) the applicant will comply with the requirements of Education Law § 3214(3)(d) and (f) and the Gun-Free Schools Act (20 U.S.C. § 7151);
- (2) the applicant will comply with the requirements of 20 U.S.C. § 7908 on military recruiter access;
- (3) the applicant will comply with the requirements of 20 U.S.C. § 7904 on constitutionally protected prayer in public elementary and secondary schools;
- (4) the applicant will comply with the requirements of Education Law § 2802(7), and any state regulations implementing such statute and 20 U.S.C. § 7912 on unsafe school choice; and
- (5) the applicant will comply with all fiscal requirements that apply to the program, including but not limited to any applicable supplement not supplant or local maintenance of effort requirements.
- (6) the applicant understands the importance of privacy protections for students and is aware of the responsibilities of the grantee under section 20 U.S.C. 1232g (FERPA) (ESSA §854)

FEDERAL TERMS AND CONDITIONS

SFAs chosen for an award from this RFP must comply with the following regulations, principals and assurances:

GOVERNMENT-WIDE REGULATIONS

- 2 CFR Part 25: “Universal Identifier and Central Locator Contractor Registration”
- 2 CFR Part 170: “Reporting Sub-award and Executive Compensation Information”
- 2 CFR Part 175: “Award Term for Trafficking in Persons”
- 2 CFR Part 180: “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-Procurement)”
- 2 CFR Part 200: “: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”
- 2 CFR Part 400: USDA Implementing regulations” Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”
- 2 CFR Part 415: USDA “General Program Administrative Regulations”
- 2 CFR Part 416: USDA “General Program Administrative Regulations for Grants and Cooperative Agreements to State and Local Governments”
- 2 CFR Part 417: USDA “Implementation of OMB Guidance on Non-Procurement Debarment and Suspension”
- 2 CFR Part 418 USDA “New Restrictions on Lobbying”
- 2 CFR Part 421: USDA “Requirements for Drug-Free Workplace (Financial Assistance)”
- 41 USC Section 22 “Interest of Member of Congress”
- Duncan Hunter National Defense Authorization Act of Fiscal Year 2009, Public Law 110-417
- Sections 745 and 746 of the Consolidated Appropriations Act, 2017 (Public Law 115-31)
- “The Federal Funding Accountability and Transparency Act (FFATA), dated September 26, 2006”

COST PRINCIPALS

- 2 CFR, Part 200: Subpart E, Cost Principles

USDA REGULATIONS

- 7 CFR Part 15: “Nondiscrimination”
- Freedom of Information Act (FOIA). Public access to Federal Financial Assistance records shall not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to the “Freedom of Information” regulation (5 U.S.C. 552).

ASSURANCE OF CIVIL RIGHTS COMPLIANCE

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-et seq.), USDA regulations at 7 CFR Part 15, Nondiscrimination, and Department of Justice regulations at 28 CFR Part 42, Nondiscrimination; Equal Employment Opportunity: Policies And Procedures
- Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and USDA regulations at 7 CFR Part 15a, Education Programs or Activities Receiving or Benefiting from Federal Financial Assistance
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 1681 et seq.) and USDA regulations at 7 CFR Part 15a, Education Programs or Activities Receiving or Benefiting from Federal Financial Assistance,

and Department of Justice regulations at 28 CFR Part 41, Implementation of Executive Order 12250, Nondiscrimination on the Basis of Handicap In Federally Assisted Programs

- Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) The Grantee assures that it will immediately take any measures necessary to effectuate the requirements in these laws, regulations, and directives. The Grantee gives this assurance in consideration of and for the purpose of obtaining the funds provided under this agreement.
- The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination on the basis of disability in employment (Title I), state & local government services (Title II), places of public accommodation and commercial facilities (Title III). (42 U.S.C. 12101-12213)

NONDISCRIMINATION STATEMENT

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;

(2) fax: (202) 690-7442; or

(3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.

USDA IS AN EQUAL OPPORTUNITY PROVIDER AND EMPLOYER.

FY 2017 National School Lunch Program (NSLP) Equipment Assistance Grant for
School Food Authorities (SFAs)

Selection Criteria Form

RA LEA Code: _____ Application #: _____
% Free/Reduced Eligibles: _____ ADP: _____

Bonus Points	Score
Points for percentage of students eligible for free and reduced price meals: If Recipient Agency has 50-100 percent free/reduced eligibles, give score of 10 Points. (10 Points)	
Points for high participation in the NSLP: If Recipient Agency has 40 percent or more of enrolled children participating in the NSLP, give score of 5 Points. (5 Points)	
Points for previously unawarded RAs: If a Recipient Agency has not received a previous grant award through the American Recovery and Reinvestment Act (ARRA) Food Service Equipment Grant, the FY 2010, FY 2014, FY 2015 or the FY 2016 National School Lunch Program Equipment Assistance Grant for School Food Authorities, give score of 10 points. (10 points)	

Equipment Request	Score	Comments
0pts- No response, 1-2pts- Partial response, 3-4pts- Most information included 5 pts= All requested information clearly included		
Application clearly states requested equipment including make/model, size, primary use, and cost (5 Points)		

Section 1: Recipient Agency Equipment Needs	Score	Comments
0pts= No response, 1-4pts= Partial or Generalized Response 5-7 pts= Adequate Response, 8-10pts= Thorough and Detailed Response		
1a. Application includes a full description of why the current equipment or lack of equipment is not meeting the needs of the NSLP. (10 Points)		

Section 2: Quality Improvement	Score	Comments
0pts= No response, 1-4pts= Partial or Generalized Response 5-7 pts= Adequate Response, 8-10pts= Thorough and Detailed Response		
2a. There is a detailed and credible justification of how the equipment will improve the overall quality of meals (10 Points)		

*Reviewer: For section 3, Check the focus area that the SFA selected and give score for the questions in the selected focus area. Check the "N/A" box if the SFA did not complete the questions for the focus area. **If the SFA provided responses to more than one focus area, award points for the first focus area addressed only.**

Section 3: The SFA selected: <input type="checkbox"/> Focus 1- Food Safety	Score	Comments
0pts= No response, 1-2pts= Partial or Generalized Response 3-4 pts= Adequate Response, 5-6pts= Thorough and Detailed Response		
3a. Justification explains how the equipment will improve safety of preparing, serving and/or storing food? (6 Points)	<input type="checkbox"/> N/A	

3b. Justification explains the challenges the SFA is experiencing related to the safety of preparing, serving and/or storing food. (6 Points)	<input type="checkbox"/> N/A		
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Section 3: The SFA selected: <input type="checkbox"/> <i>Focus 2- Efficiency of school nutrition operations</i>		Score	Comments
Opts= No response, 1-2pts= Partial or Generalized Response 3-4 pts= Adequate Response, 5-6pts= Thorough and Detailed Response			
3c. Justification explains how the equipment will improve the overall energy efficiency (6 Points)	<input type="checkbox"/> N/A		
3d. Justification explains the processes that will improve due to the new equipment & how are they currently managed. (6 Points)	<input type="checkbox"/> N/A		

Section 3: The SFA selected: <input type="checkbox"/> <i>Focus 3- Expanded Participation</i>		Score	Comments
Opts= No response, 1-2pts= Partial or Generalized Response 3-4 pts= Adequate Response, 5-6pts= Thorough and Detailed Response			
3e. Justification explains how the equipment will allow expanded participation (6 Points)	<input type="checkbox"/> N/A		
3f. Justification indicates the specific strategies the SFA will be able to employ to increase the number of students participating in the NSLP/SBP (6 Points)	<input type="checkbox"/> N/A		

Section 4: Research & Budget (Required)		Score	Comments
0= No response, 1pts= Partial or Generalized Response 2-3pts= Adequate Response, 4pts= Thorough and Detailed Response			
4a. Answer describes the steps taken to ensure the best quality, size, model and value. (4 Points)			
4b. Answer reflects the research conducted to obtain best possible price (4 Points)			
4c. The application includes supporting documentation to substantiate the cost (price quotes, equipment specification sheets, etc.) (4 Points)			

Overall Comments:

Reviewer Name:	Total Score:
	<u> </u> / 74

